

House Study Bill 147 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON EDUCATION BILL BY
CHAIRPERSON FORRISTALL)

A BILL FOR

1 An Act relating to the establishment of an independent private
2 instruction option for students of compulsory attendance
3 age.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 261E.8, subsection 2, Code 2011, is
2 amended to read as follows:

3 2. Students from accredited nonpublic schools and students
4 receiving competent private instruction or independent private
5 instruction under chapter 299A may access the program through
6 the school district in which the accredited nonpublic school or
7 private institution is located.

8 Sec. 2. Section 299.1, subsection 1, Code 2011, is amended
9 to read as follows:

10 1. Except as provided in section 299.2, the parent,
11 guardian, or legal or actual custodian of a child who is of
12 compulsory attendance age, shall cause the child to attend some
13 public school, or an accredited nonpublic school, or place
14 the child under competent private instruction or independent
15 private instruction in accordance with the provisions of
16 chapter 299A, during a school year, as defined under section
17 279.10.

18 Sec. 3. Section 299.1B, Code 2011, is amended to read as
19 follows:

20 **299.1B Failure to attend — driver's license.**

21 A person who is of compulsory attendance age, who is not
22 exempt under section 299.2, who does not attend a public
23 school, or an accredited nonpublic school, who is not
24 receiving competent private instruction or independent private
25 instruction in accordance with the provisions of chapter
26 299A, and who does not attend an alternative school, or adult
27 education classes, shall not receive an intermediate or full
28 driver's license until age eighteen.

29 Sec. 4. Section 299.6A, subsection 1, Code 2011, is amended
30 to read as follows:

31 1. In lieu of a criminal proceeding under section 299.6,
32 a county attorney may bring a civil action against a parent,
33 guardian, or legal or actual custodian of a child who is of
34 compulsory attendance age, has not completed educational
35 requirements, and is truant, if the parent, guardian, or legal

1 or actual custodian has failed to cause the child to attend a
2 public school, or an accredited nonpublic school, or placed
3 the child under competent private instruction or independent
4 private instruction in the manner provided in this chapter. If
5 the court finds that the parent, guardian, or legal or actual
6 custodian has failed to cause the child to attend as required
7 in this section, the court shall assess a civil penalty of not
8 less than one hundred but not more than one thousand dollars
9 for each violation established.

10 Sec. 5. Section 299.8, Code 2011, is amended to read as
11 follows:

12 **299.8 "Truant" defined.**

13 Any child of compulsory attendance age who fails to attend
14 school as provided in this chapter, or as required by the
15 school board's or school governing body's attendance policy,
16 or who fails to attend competent private instruction or
17 independent private instruction under chapter 299A, without
18 reasonable excuse for the absence, shall be deemed to be a
19 truant. A finding that a child is truant, however, shall not
20 by itself mean that the child is a child in need of assistance
21 within the meaning of chapter 232 and shall not be the sole
22 basis for a child in need of assistance petition.

23 Sec. 6. Section 299.11, unnumbered paragraph 1, Code 2011,
24 is amended to read as follows:

25 The truancy officer may take into custody without warrant
26 any apparently truant child and place the child in the
27 charge of the school principal, or the principal's designee,
28 designated by the board of directors of the school district
29 in which the child resides, or of any nonpublic school, or
30 any authority providing competent private instruction or
31 independent private instruction as defined in section 299A.1,
32 subsection 2, designated by the parent, guardian, or legal or
33 actual custodian; but if it is other than a public school,
34 the instruction and maintenance of the child shall be without
35 expense to the school district. If a child is taken into

1 custody under this section, the truancy officer shall make
2 every reasonable attempt to immediately notify the parent,
3 guardian, or legal or actual custodian of the child's location.

4 Sec. 7. Section 299.12, subsection 2, Code 2011, is amended
5 to read as follows:

6 2. This section is not applicable to a child who is
7 receiving competent private instruction or independent private
8 instruction in accordance with the requirements of chapter
9 299A. If a child is not in compliance with the attendance
10 requirements established under section 299.1, and has not
11 completed educational requirements through the sixth grade,
12 and the school has used every means available to assure the
13 child does attend, the school truancy officer shall contact
14 the child's parent, guardian, or legal or actual custodian to
15 participate in an attendance cooperation meeting. The parties
16 to the attendance cooperation meeting may include the child
17 and shall include the child's parent, guardian, or legal or
18 actual custodian and the school truancy officer. The school
19 truancy officer contacting the participants in the attendance
20 cooperation meeting may invite other school officials, a
21 designee of the juvenile court, the county attorney or the
22 county attorney's designee, or other persons deemed appropriate
23 to participate in the attendance cooperation meeting.

24 Sec. 8. Section 299A.1, Code 2011, is amended to read as
25 follows:

26 **299A.1 Private Competent private instruction and independent**
27 **private instruction.**

28 1. The parent, guardian, or legal custodian of a child of
29 compulsory attendance age who places the child under private
30 instruction shall provide, unless otherwise exempted, competent
31 private instruction or independent private instruction in
32 accordance with this chapter. A parent, guardian, or legal
33 custodian of a child of compulsory attendance age who places
34 the child under private instruction which is not competent
35 private instruction or independent private instruction,

1 or otherwise fails to comply with the requirements of this
2 chapter, is subject to the provisions of sections 299.1 through
3 299.4 and the penalties provided in section 299.6.

4 2. For purposes of this chapter, ~~“competent~~ and chapter 299:

5 a. “Competent private instruction” means private instruction
6 provided on a daily basis for at least one hundred forty-eight
7 days during a school year, to be met by attendance for at
8 least thirty-seven days each school quarter, by or under the
9 supervision of a licensed practitioner in the manner provided
10 under section 299A.2, or other person under section 299A.3,
11 which results in the student making adequate progress.

12 ~~For purposes of this chapter and chapter 299, “private~~
13 ~~instruction”~~

14 b. “Independent private instruction” means instruction that
15 meets the following criteria:

16 (1) Is not accredited.

17 (2) Enrolls not more than four unrelated students.

18 (3) Does not charge tuition, fees, or other remuneration for
19 instruction.

20 (4) Provides private or religious-based instruction as its
21 primary purpose.

22 (5) Provides enrolled students with instruction in
23 mathematics, reading and language arts, science, and social
24 studies.

25 (6) Provides, upon written request from the superintendent
26 of the school district in which the independent private
27 instruction is provided, or from the director of the department
28 of education, a report identifying the primary instructor,
29 location, name of the authority responsible for the independent
30 private instruction, and the names of the students enrolled.

31 (7) Is not a nonpublic school and does not provide competent
32 private instruction as defined in this subsection.

33 (8) Is exempt from all state statutes and administrative
34 rules applicable to a school, a school board, or a school
35 district, except as otherwise provided in chapter 299 and this

1 chapter.

2 c. "Private instruction" means instruction using a plan and
3 a course of study in a setting other than a public or organized
4 accredited nonpublic school.

5 Sec. 9. Section 299A.11, Code 2011, is amended to read as
6 follows:

7 **299A.11 Student records confidential.**

8 Notwithstanding any provision of law or rule to the
9 contrary, personal information in records regarding a child
10 receiving competent private instruction or independent private
11 instruction pursuant to this chapter, which are maintained,
12 created, collected, or assembled by or for a state agency,
13 shall be kept confidential in the same manner as personal
14 information in student records maintained, created, collected,
15 or assembled by or for a school corporation or educational
16 institution in accordance with section 22.7, subsection 1.

17 Sec. 10. Section 321.178, subsection 1, paragraph c, Code
18 2011, is amended to read as follows:

19 c. Every public school district in Iowa shall offer or make
20 available to all students residing in the school district,
21 or Iowa students attending a nonpublic school or receiving
22 independent private instruction as defined in section 299A.1,
23 subsection 2, in the district, an approved course in driver
24 education. The receiving district shall be the school district
25 responsible for making driver education available to a student
26 participating in open enrollment under section 282.18. The
27 courses may be offered at sites other than at the public
28 school, including nonpublic school facilities within the public
29 school districts. An approved course offered during the summer
30 months, on Saturdays, after regular school hours during the
31 regular terms or partly in one term or summer vacation period
32 and partly in the succeeding term or summer vacation period,
33 as the case may be, shall satisfy the requirements of this
34 section to the same extent as an approved course offered during
35 the regular school hours of the school term. A student who

1 successfully completes and obtains certification in an approved
2 course in driver education or an approved course in motorcycle
3 education may, upon proof of such fact, be excused from any
4 field test which the student would otherwise be required to
5 take in demonstrating the student's ability to operate a motor
6 vehicle. A student shall not be excused from any field test
7 if a parent, guardian, or instructor requests that a test
8 be administered. A final field test prior to a student's
9 completion of an approved course shall be administered by a
10 person qualified as a classroom driver education instructor and
11 certified to provide street and highway driving instruction. A
12 person qualified as a classroom driver education instructor but
13 not certified to provide street and highway driving instruction
14 may administer the final field test if accompanied by another
15 person qualified to provide street and highway driving
16 instruction.

17 EXPLANATION

18 This bill establishes under the Code chapter governing
19 private instruction an option for independent private
20 instruction.

21 Under the bill, "independent private instruction" means
22 instruction that is not accredited; enrolls not more than
23 four unrelated students; does not charge tuition, fees,
24 or other remuneration for instruction; provides private or
25 religious-based instruction as its primary purpose; provides
26 enrolled students with instruction in mathematics, reading and
27 language arts, science, and social studies; provides, upon
28 written request from the superintendent of the school district
29 in which the independent private instruction is provided or
30 from the director of the department of education, a report
31 identifying the primary instructor, location, name of the
32 authority responsible for the independent private instruction,
33 and the names of the students enrolled; is not a nonpublic
34 school and is distinct from competent private instruction as
35 defined in Code chapter 299A(2); and is exempt from all state

1 statutes and administrative rules applicable to a school,
2 a school board, or a school district, except as otherwise
3 provided in Code chapters 299 and 299A, relating to compulsory
4 education and private instruction.

5 Students who are receiving independent private instruction
6 are allowed to access the district-to-community college sharing
7 or concurrent enrollment program through the school district in
8 which the private institution is located.

9 Students who receive independent private instruction are
10 not deemed truant unless they fail to attend the independent
11 private instruction. A truancy officer may take into custody
12 without warrant any apparently truant child and place the child
13 enrolled in independent private instruction in the charge
14 of the authority providing independent private instruction
15 designated by the parent, guardian, or legal or actual
16 custodian. Code section 299.12, which provides for attendance
17 cooperation meetings and agreements, is inapplicable to a child
18 receiving independent private instruction.

19 Personal information in records regarding a child receiving
20 independent private instruction that are maintained, created,
21 collected, or assembled by or for a state agency, shall be kept
22 confidential in the same manner as personal information in
23 student records maintained, created, collected, or assembled by
24 or for a school corporation or educational institution.

25 The public school district in which a student receives
26 independent private instruction shall offer or make available
27 to the student an approved course in driver education.

28 A student receiving independent private instruction is not
29 required to meet the competent private instruction requirements
30 of Code chapter 299A, such as annual achievement evaluations
31 and requirements establishing consequences for failure to make
32 adequate progress, nor are they eligible to participate in
33 dual enrollment and the home school assistance program. A
34 child identified as requiring special education is eligible for
35 placement under competent private instruction, but not if the

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1 child is under independent private instruction.